involves determining the very point which the evidence is offered to prove. *Hichens* v. *Eardley*, L. R. 2 P. & D. 248. The principal case is the strongest test of the rule, as the inadmissibility of the wife's evidence depends in substance on the prisoner's guilt. The decision is important in that it meets the problem squarely, and does not attempt to evade the question by a vague ruling based upon the court's discretion.

LEGACIES AND DEVISES — VOID OR VOIDABLE BEQUESTS AND DEVISES — GIFT TO WIFE WHILE LIVING APART FROM HUSBAND. — A testator bequeathed stock to trustees to pay his daughter A the income during such time as her husband should be living apart from her; and in the event of their living together again, over. A's husband had deserted her and she still lived apart from him. *Held*, that the bequest contravenes no public policy and is valid. *Re Charleton*, 55 Sol. J. 330 (Eng., Ch. Div., Feb. 24, 1911).

The court, in pointing out that no illegality is here involved, lays stress on the facts that A had already been deserted by her husband and that the provision was intended, not to bring about a separation, but merely to provide for the decent maintenance of the wife until her husband should return. In the closely analogous case of restraints upon marriage, the donor's intent seems the controlling factor. But see 24 HARV. L. REV. 405. Thus a devise to a woman so long as she remains single, it appearing that the testator's object is not to prevent matrimony but only to provide for the devisee while she stays single, is valid. *Arthur* v. *Cole*, 56 Md. 100. See 14 HARV. L. REV. 614. "A purpose of intermediate maintenance will not be interpreted maliciously to a charge of restraining marriage." *Scott* v. *Tyler*, 2 Dick. 712, 722. The same rule is properly to be applied in situations such as the principal case presents. Thus it has been held that if the purpose of the gift is to induce the beneficiary to leave her husband, the provision violates public policy and the usual rules as to the effect of the illegality upon the condition or limitation apply. *Re Moore*, 39 Ch. D. 116.

MILITIA — CIVIL LIABILITY — ACTS DONE IN OBEDIENCE TO ORDERS. — The defendant, a militiaman on riot duty, under orders to arrest all passers-by carrying concealed weapons, arrested the plaintiff who had a pistol in his buggy. The plaintiff sued for false imprisonment. *Held*, that he may recover. *Franks* v. *Smith*, 134 S. W. 484 (Ky.). See NOTES, p. 656.

MINES AND MINERALS — LOCATION OF CLAIMS — EXCESSIVE LOCATION. — In locating a mining claim the defendant marked the boundaries of the side lines within three hundred feet of the supposed course of the center of the vein. Part of the ground so located proved to be more than three hundred feet from the true course of the vein. *Held*, that such part of the location is not excessive as against the claims of subsequent locators. *Harper* v. *Hill*, 113 Pac. 162 (Cal., Sup. Ct.).

The statute provides that a mining claim shall not exceed in width three hundred feet on each side of the middle of the vein at the surface. U. S. REV. STAT., 1878, § 2320. On the theory that the right to the surface continued, as under the prior act of 1866, to be incidental and dependent upon the right to the vein, it has been held that if a vein unexpectedly terminates before reaching an end line, the location beyond that point is void. *Patterson* v. *Hitchcock*, 3 Colo. 533. So also, in a case like the present, any ground proving to be more than three hundred feet from the vein has been held to be excess, though the location has not exceeded six hundred feet in width. *Southern California Ry. Co.* v. *O'Donnell*, 2 Cal. App. 499. Such a strict construction of the statute has been justly criticized, because it makes all locations "floating" until the exact course of the vein is ascertained, and because the acquisi-